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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/125,005	07/30/1998	DANIEL CAPUT	IVD-913	7322

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EXAMINER
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UNGAR, SUSAN NMN

ART UNIT	PAPER NUMBER
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1642

DATE MAILED: 01/15/2003

19

Please find below and/or attached an Office communication concerning this application or proceeding.

Art Unit: 1642

1. The Amendment After Final filed February 9, 2002 (Paper No. 18) in response to the Office Action of August 8, 2001 (Paper No. 15) is acknowledged and has been entered. Previously pending claims 33-34 have been canceled, claim 1 has been amended. Claims 1-5 are currently being examined.

***Claim Rejections - 35 USC § 101***

2. Claims 1-5 remain rejected under 35 USC 101 for the reasons previously set forth in Paper No. 15, Section 6, pages 2-4 and previously.

Applicant argues that the p73 polypeptide of SEQ ID NO:1 disclosed in WO 99/66946 is identical, amino acid for amino acid to the SR-p70 polypeptide, SEQ ID NO:6 and that enclosed is an exhibit showing residue by residue comparison.

The argument has been considered but has not been found to be persuasive because a review of the response did not reveal the submission of said exhibit. Further, even if the exhibit had been submitted, it would not have been considered because Applicant has not shown good and sufficient reasons why it was not earlier presented.

Applicant argues that in the Br. J. Cancer 2001 reference, submitted in whole rather than abstract form in the instant response, demonstrates the utility of the claimed invention.

The argument has been considered but has not been found to be persuasive because Applicant has not shown good and sufficient reasons why the entire reference it was not earlier presented.

***Claim Rejections - 35 USC § 112***

Art Unit: 1642

3. Claims 1-5 remain rejected under 35 USC 112, first paragraph for the reasons previously set forth in Paper No. 15, Sections 7 and 8, pages 4-5 and previously.

Applicant argues that since the invention has utility for the reasons set forth above, the rejection should be withdrawn. The argument has been considered but has not been found persuasive because the exhibits have not been considered.

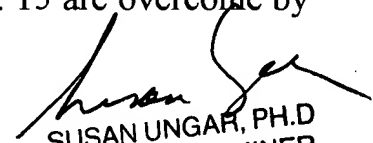
Applicant argues that since claim 1 no longer reads on sequences derived, rejection for lack of enablement commensurate in scope and written description not commensurate in scope are overcome. The argument has been considered but has not been found persuasive because claim 3 still reads on derivatives as it is drawn to a polypeptide comprising a sequence lying between residues 110 and residue 310 of SEQ ID NO:6. As broadly written, the claim reads on a polypeptide comprising any sequence within the stated range. The claim as written is drawn to a derivative/variant of SEQ ID NO:6.

***Claim Rejections - 35 USC § 102***

4. Claim 3 remains rejected under 35 USC 102 for the reasons previously set forth in Paper No. 15, Section 11, pages 6-7 and previously

Applicant argues that the reference does not disclose any sequence falling within the scope of claim 1 as presently amended. The argument has been considered but has not been found persuasive because, for the reasons of record, the reference falls within the scope of claim 3.

5. All other objections and rejections recited in Paper No. 15 are overcome by the amendment submitted in Paper No. 18.

  
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PRIMARY EXAMINER